



# **Food Safety Enforcement Manual 2012/13**

**Including Policy in Respect to  
Food Safety Law Enforcement  
& Enforcement Policy  
Guidelines for Officers  
Controlled Document  
Version of 1/April 2012**

**Decontrolled if Printed  
Please check Public folders for currency**

**April 2010**

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# Chapter One

## AUTHORISATION

The contents of this document have been adopted as the policy of Argyll and Bute Council in relation to the enforcement of food safety legislation by the Protective Services and Licensing Committee on the ??? of ??? 2009.

## **Chapter Two**

### **STATUS OF THE POLICY AS A WORK INSTRUCTION**

All enforcement in relation to food hygiene and safety legislation shall comply with this Manual.

Compliance with the policy represents an instruction binding upon the conduct of Authorised Officers in relation to food safety legislation.

Signed :

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Regulatory Services Manager

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<p style="text-align: center;"><b>SECTION 2</b></p> <p style="text-align: center;"><b>FUNDAMENTAL PRINCIPLES</b></p>
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## Chapter One

### DEFINITIVE STATEMENT OF PRINCIPLES

**1.0.0** The Argyll and Bute Council will enforce Food Safety legislation according to the following fundamental principles :-

- (i) Enforcement action will only be initiated where it accords with the Council's general policy on Food Safety.
- (ii) Enforcement shall be based upon a comprehensive assessment of risk to public health. (In this context, risk is defined as the probability of harm to health.). Where risk cannot be confirmed by evidence but it is apparent that protection of the public health requires exercise of a power, then the Service will exercise its best endeavours to act according to the precautionary principle and will exercise a power with the intention of safeguarding public health.
- (iii) Enforcement shall be consistent, fair and proportionate to the risk(s), based upon objective evidence, and in accordance with the Service's published standards, the Service's Enforcement Policy and the Enforcement Concordat and its successors which to date constitutes the Regulators Compliance Code.
- (iv) Enforcement action shall comply with Food Law Codes of Practice issued by the Food Standards Agency.
- (v) Enforcement action shall accord with enforcement guidance, issued by the Local Authority Committee on Food and Trading Standards (LACOTS/LACORS) and the Scottish Food Enforcement Liaison Committee and its antecedents.

**1.0.1** The remainder of this Manual defines in more specific detail the application of the above principles to the enforcement of Food Safety Legislation.

#### **Fundamental Principles**

**1.1.0** The rationale underpinning the policy is foremost the protection of the public through the selection of appropriate interventions and reasonable enforcement action, be it verbal warnings, the issue of written warnings or statutory notices or prosecution, which is primarily based upon an assessment of risk to public health. This will be achieved through the enforcement of Food Safety legislation, appropriate to the risk to public health. Enforcement action will **not**, therefore, constitute a punitive response to a minor technical contravention of legislation. Where risks cannot be confirmed in an absolute sense then the Service will adopt a precautionary approach.

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## Chapter One (Cont'd)

### DEFINITIVE STATEMENT OF PRINCIPLES

- 1.1.1 This Manual has been prepared with reference to the relevant Food Law Code of Practice, and to LACOTS/LACORS and SFELC guidance.
- 1.1.2 In the absence of a specific statement of policy within This Manual, then the Departmental Enforcement Policy Service Policy will prevail.
- 1.1.3 In February 1994, LACOTS/LACORS published guidance entitled “Guidance on Food Safety Enforcement Policies” on the adoption of enforcement policies by Local Authorities, for the purpose of achieving greater consistency between Local Authorities in their approach to the enforcement of Food Safety legislation.
  - 1.1.3.1 This Manual has been developed with reference to the guidance provided by LACOTS/LACORS.
- 1.1.4 The operation of this Manual is intended to support the many food businesses which wish to comply with the law, whilst focusing formal enforcement action on those which are negligent or reckless, or unwilling to provide minimum standards of Food Safety.

## **Chapter Two**

### **GENERAL POLICY OF ARGYLL AND BUTE COUNCIL IN RELATION TO FOOD SAFETY**

- 1.1.0** The Argyll and Bute Council is committed to its role in the protection of the public, and as a statutory Food Authority will seek to ensure that food and drink intended for human consumption which is produced, stored, distributed, handled or consumed within Argyll and Bute is without risk to the health or safety of the consumer and also complies with the relevant legislation.
- 1.1.1** The Argyll and Bute Council recognises that a key element of its activity will be to allow and encourage economic progress and to intervene when there is a clear case for protection of the public. Therefore, the Argyll and Bute Council will, in addition to the exercise of its statutory enforcement role, work to support all food businesses in a sense of partnership, helping to meet emergent challenges.

## Chapter Three

### PROMOTION OF THE HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) SYSTEM

**1.0.0** The Argyll and Bute Council is committed to the promotion of the Food Safety Management Systems within Food Businesses based upon the following:-

- Guidelines for the application of the Hazard Analysis Critical Control Point (HACCP) System published by the joint Food and Agriculture/World Health Organisation Codex Alimentarius Commission
- Revised recommended International Code of Practice General Principles of Food Hygiene Published by the World Health Organisation Codex Alimentarius Commission.
- **Guidelines For The Validation Of Food Safety Control Measures' CAC/GI 69 – 2008, published by the World Health Organisation, Codex Alimenatrius Commission**
- **'E.coli 0157 Control of Cross Contamination Guidance for Food Business Operators and Enforcement Authorities' and associated Guidance published by the Food Standard Agency.**

It is the policy of the Council to recognise Article 5 of Regulation (EC) 852/2004 on the Hygiene of Foodstuffs as the overarching key legal requirement to ensuring the sale of safe food. The Council will therefore endeavour to achieve the implementation of Article 5 as appropriate throughout the food sector.

In so doing, it is also the policy of the Council to recognise and be informed by the principles of flexibility contained within paragraphs 15, 16 and 17 of Regulation (EC) 852/2004. In particular it is the policy of the Council to recognise that :-

- In certain food businesses it is not possible to identify critical control points and that, in some cases, good hygiene practices can replace the monitoring of critical control points.
- The requirement of establishing critical limits does not imply that it is necessary to fix a numerical limit in every case.
- The requirement of retaining documents needs to be flexible in order to avoid undue burdens for very small businesses.
- Flexibility is also appropriate to enable the continued use of traditional methods at any of the stages of production, processing or distribution.

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## **Chapter Three (Cont'd)**

### **PROMOTION OF THE HAZARD ANALYSIS CRITICAL CONTROL POINT (HACCP) SYSTEM**

It is the policy of the Council to fully recognise and be informed by guides for the application of HACCP Principles developed in accordance with Article 8 and Article 9 of Regulation (EC) 852/2004, including the Guidance Document entitled “Implementation of Procedures Based Upon the HACCP Principles, and Facilitation of the Implementation of the HACCP Principles in Certain Food Businesses” published by the Health and Consumer Protection Directorate General of the European Commission.

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# Chapter Four

## POLICY ON FOOD SAFETY INTERVENTIONS

**1.0.0** It is the policy of the Argyll and Bute Council in its role as a Statutory Food Authority to utilise interventions flexibly, so far as it is provided for within the Food Law Code of Practice and informed by a process of risk assessment.

It is therefore also the policy of the Argyll and Bute Council that those food businesses that are compliant with Food Law should be subject to interventions that reflect the level of compliance that has been achieved by the Food Business Operator. Consistent with this approach it is, furthermore, the policy of the Argyll and Bute Council that more intensive interventions should only be directed at those Food Businesses that present the greatest risk to Public Health.

It is the policy of the Argyll and Bute Council to review on an annual basis its strategy on interventions and in so doing to be guided by the Food Law Code of Practice and the principle of risk assessment.

**SECTION 3**  
**ENFORCEMENT -**  
**GENERAL CRITERIA**

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## Chapter One

### STATEMENT OF POLICY IN RELATION TO

### SELECTING INTERVENTIONS AND DECISION MAKING IN ENFORCEMENT

- 1.0.0** The Regulatory Services Manager in consultation with the Lead Environmental Health Officer, Food Control, will authorise Officers to select interventions and to take enforcement action appropriate to their qualifications and experience
- 1.0.1** In deciding whether an Officer should be authorised to select interventions, or initiate enforcement action, consideration will be given to the qualifications of the Officer and his/her level of experience in Food Safety enforcement. Decisions will be made following reference to the guidance given in the Food Law Code of Practice and to **Competency Matrix published by the Scottish Food Enforcement Liaison Committee. GET TITLE ???**
- 1.0.2** All precognitions must be submitted timeously (having regard to Human Rights legislation and any time bar) to the Lead Environmental Health Officer, Food Control, who will provide advice to the Officers and the Regulatory Services Manager.
- 1.0.3** The decision to submit a Report to the Procurator Fiscal will be made by the Regulatory Services Manager in consultation with the Lead Environmental Health Officer, Food Control.
- 1.0.4** It is the policy of the Argyll and Bute Council to require that authorised Officers select interventions in accordance with the Food Law Code of Practice and in accordance with the following criteria, although not exclusively so:-
- (i) Where to do so would comply with the General Policy of the Argyll and Bute Council in relation to Food Safety, and with this policy, particularly Section 3, Chapter 2.

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## Chapter Two

### STATEMENT OF POLICY IN RELATION TO

### SCOPE OF ENFORCEMENT OPTIONS

**1.0.0** This Authority recognises the importance of ensuring that enforcement decisions are consistent, fair, proportional to risk(s) and based on published standards. The Argyll and Bute Council will adopt and comply with the guidance contained in the Food Law Code of Practice, and in the circulars and other guidance issued by the FSA/SFELC/LACOTS/LACORS, including advice relating to the Home Authority Principle, where appropriate.

**1.0.1** Before making a decision on the selection of an intervention or need for any enforcement action, Officers are required to consider :-

- (i) the identification of a food safety hazard(s) and an evaluation of the risk(s) to Public Health
- (ii) the seriousness of any offence
- (iii) the past history of the food business
- (iv) confidence in management
- (v) the consequences of non-compliance, and
- (vi) the factors influencing non-compliance
- (vii) the likely effectiveness of available interventions and enforcement options
- (viii) statutory and non-statutory microbiological and other criteria and standards
- (ix) the economic impact of an intervention or an enforcement action, although it is the policy of the Argyll and Bute Council that the priority consideration is one of protection of public health and that consideration of the economic impact is subordinate to (i) to (viii) above.

**1.0.2** Once all the criteria described above have been considered, together with other relevant information, the Officer shall determine:-

- (a) the most appropriate intervention in accordance with the Food Law Code of Practice
- (b) that there is no need for action
- (c) /....

## Chapter Two (Cont'd)

### SCOPE OF ENFORCEMENT OPTIONS

- (c) to take informal action
- (d) to use statutory notices
- (e) that a report should be submitted to the Procurator Fiscal

**1.0.3** Authorised Officers will not select any intervention nor take any enforcement action which is inconsistent with the Food Law Code of Practice or with the advice issued by the SFELC/LACORS or Enforcement Service Policies without raising the issue with the Council's Lead Environmental Health Officer, Food Control, or the Regulatory Services Manager. Where indicated, including where the issue appears to be of national significance, the matter will be referred to the SFELC for consideration by the LACORS National Food Safety Panel, if appropriate.

**1.0.3.1** Where appropriate, the Home or originating Authority will be appraised of any proposed enforcement actions against a business in which they have an interest, in accordance with the guidance issued by LACOTS/LACORS on the Home Authority Principle. (Chief Officer Circular FS 3 94 of 21 February 1994 and subsequent Circular FS 4 94 of March 1994).

Note: This practice accords with the Food Law Code of Practice.

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## Chapter Three

### STATEMENT OF POLICY IN RELATION TO

### ENFORCEMENT DECISIONS - RISK TO PUBLIC HEALTH AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE

It is the policy of the Argyll and Bute Council to require that Authorised Officers, in making enforcement decisions, have regard to, but not exclusively, the criteria specified below. Where all the information is not available to inform an enforcement decision based upon protection of public health, Officers are required to exercise a precautionary approach with the intention of protecting public health.

**1.0.0** Officers must have regard to the following criteria, albeit not exclusively, when determining the choice of enforcement options:-

**1.0.1** **The risk arising from any contravention of legislation.** This consideration will include the following:-

- (a) the possibility of contamination by a hazardous agent with reference as appropriate to statutory and non-statutory microbiological and other standards and criteria.
- (b) the method of processing
- (c) the efficacy of control measures
- (d) the potential number of consumers at risk
- (e) the possibility of consumption by vulnerable groups

**1.0.2** **The nature of the food business.** This consideration will include the following:-

- (a) the size of the business
- (b) the amount of food produced (ie, throughput)
- (c) the extent of supply

**1.0.3** /....

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### ENFORCEMENT DECISIONS – RISK TO PUBLIC HEALTH AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE

**1.0.3** The nature and type of the food being handled. This will include the following:-

- (a) intrinsic factors associated with the food
- (b) extrinsic factors associated with the food
- © the likely effect of any further processing

**1.0.4** The relevant Guides and 'Models' given effect by EC Regulations and Directives

**1.0.5** Official expert advice. This will include the following (although not exclusively so):-

- (a) The Food Standards Agency
- (b) The Advisory Committee on the Microbiological Safety of Food
- © Fisheries Research Services of the Marine Laboratory in Aberdeen
- (d) The Centre for Environment, Fisheries and Aquaculture Science of the Department of Environment and Rural Affairs

**1.0.6** Officers **must** ensure that they comply with this requirement in making enforcement decisions and in exercising the precautionary principle as appropriate.

**1.0.7** **Criteria in Enforcement Decision Making Based Upon Risk to Public Health**

It is not the policy of the Argyll and Bute Council to prescribe absolute requirements for criteria to be considered by Officers in making an enforcement decision based upon risk to public health. Rather it is the policy of the Service to recognise that to do so would be highly problematic, restrictive and, in some situations, this may lead to decisions being made which in fact do not comply with the general and overarching principles of the policy. The Officer must consider the above criteria but not exclusively. Each case must be assessed according to all the information available.

**1.0.8** /....

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**Chapter Three (Cont'd)**

**ENFORCEMENT DECISIONS – RISK TO PUBLIC HEALTH  
AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE**

**1.0.8      The Precautionary Approach**

It is also the policy of the Service to fully recognise the fact that sufficient information may not be available to inform consideration of all the criteria necessary to make a fully informed enforcement decision based upon the risk to public health. In such situations it is the policy of the Argyll and Bute Council to exercise a precautionary approach with the objective of protecting public health – ie, to act as if a hazard or a risk has been confirmed, based upon the available objective evidence. This is in recognition of the fact that to await the absolute evidence may actually endanger public health in some situations.

## Chapter Four

### STATEMENT OF POLICY IN RELATION TO

### EVIDENTIAL REQUIREMENTS IN ENFORCEMENT DECISION MAKING AND EXERCISE OF THE PRECAUTIONARY PRINCIPLE

It is the policy of the Argyll and Bute Council to require that Authorised Officers - prior to making any enforcement decision - obtain sufficient evidence to validate this decision. Before making any enforcement decision Officers **must** ensure that they comply with this requirement.

**1.0.0** It is the policy of the Argyll and Bute Council to consider evidence as according to the definition made within BS EN ISO 8402 : 1995 Quality Management and Quality Assurance – Vocabulary

*“Information that can be proved true, based upon facts obtained through observation, measurement, test or other means”*

**1.0.1** **It is the policy of the Argyll and Bute Council to recognise the potential value of information received from members of the public, businesses and other agencies. It also the policy of the Council to evaluate such information, according to the Guidelines contained within the National Intelligence Model (5X5X5), published by the National Policing Improvement Agency (NPIA) and associated Guidance published by the Food Standards Agency and its agents such as the National Food Fraud Database: Short Guide To Intelligence Reports Using The ‘5 X 5 X 5’ System**

**1.0.2** It is the policy of the Argyll and Bute Council to recognise that sufficient objective evidence is not always available to inform an enforcement decision, but that exercise of the precautionary principle is required to safeguard public health. In such situations it is then the policy of the Argyll and Bute Council to exercise the precautionary principle and Officers **must** act accordingly.

**1.0.3** **The Precautionary Approach**

It is also the policy of the Council to fully recognise the fact that sufficient evidence may not be available although it is apparent that safeguard of public health requires the exercise of a statutory power. In such situations it is the policy of the Argyll and Bute Council to exercise a precautionary approach with the objective of protecting public health - ie to act as if a hazard or a risk has been confirmed based upon the objective evidence that is available. This is in recognition of the fact that to await the absolute evidence may actually endanger public health in some situations.

Officers must ensure that they do so in such situations and must also act reasonably at all times.

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## Chapter Five

### STATEMENT OF POLICY IN RELATION TO

### INTERPRETATION OF LAW AND STANDARDS OF GOOD HYGIENE PRACTICE

- 1.0.0** It is the policy of the Argyll and Bute Council to interpret food safety legislation accurately and consistently.
- 1.0.1** It is the policy of the Argyll and Bute Council to interpret food safety legislation with regard to applicable Guides and “Models” given effect by European Commission Regulations and Directives.
- 1.0.2** The Service acknowledges the legal duty binding upon it.
- 1.0.3** Authorised Officers **must** have regard to any such relevant industry guide when interpreting and enforcing food safety legislation.

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## Chapter Six

### STATEMENT OF POLICY IN RELATION TO

### TRIGGER VALUES FOR ENFORCEMENT AND SECONDARY INSPECTIONS

- 1.0.0** It is the policy of the Argyll and Bute Council to initiate the appropriate enforcement when a Food Businesses is confirmed to be failing to comply with significant statutory requirements and when an Authorised Officer gives a score of 15 or more in either of the compliance rating elements within the inspection-rating scheme. Significant contravention shall be determined by reference to Section 2, Chapters 1 and 2 and Section 3, Chapters 2, 3 and 4 of this Manual .
- 1.1.0** The appropriate enforcement action shall accord with the Fundamental Principles, with the Enforcement General Criteria stated with Sections 2 and 3 of this Manual respectively and with the relevant requirements stated elsewhere within this Manual.
- 1.2.0** Secondary inspections for Food Safety purposes will be carried out when a Food Business is confirmed to be failing to comply with significant statutory requirements. When an Authorised Officer provides a score of 15 or more in either of the compliance elements of the Inspection Rating scheme, this will act as a ‘trigger’ for a secondary inspection to be scheduled.
- 1.3.0** The timing of the secondary inspection will be determined by the nature of the contravention and the action required to secure the compliance. It is the policy of the Argyll and Bute Council that, in any case, the secondary inspection will take place no longer than 3 months after the primary inspection unless a statutory notice has been served which specified a longer time.
- 1.4.0** It is the policy of the Argyll and Bute Council to take the appropriate enforcement action when Food Businesses have failed to remedy the significant contraventions, which initiated the secondary inspection

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**SECTION 4**

**EXERCISE OF GENERAL POWERS  
OF ENFORCEMENT CONFERRED UNDER  
THE FOOD HYGIENE (SCOTLAND)  
REGULATIONS 2006**

<b>Section 4</b>		
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Version 6 : 1st April 2012

Last Date of Revision: 1<sup>st</sup> April. Reasons:- Cross Contam Guidance/RAN's ?WHO-Codex Val paper

Author:- A J MacLeod: Lead Officer

## Chapter One

### STATEMENT OF POLICY IN RELATION TO INFORMAL ACTION

**1.0.0** It is the policy of the Argyll and Bute Council that informal action used to secure compliance with legislation includes verbal cautionary advice, the use of letters, and written inspection reports.

**1.0.1** It is the policy of the Argyll and Bute Council that informal action also includes verbal advice as to recognised good Food Safety practice.

**1.0.2** It is the policy of the Argyll and Bute Council to take informal action where one or more of the following circumstances pertain :-

- (a) the act or omission is not serious enough to warrant formal action.
- (b) That, having had regard to the past history of an individual's/enterprise, the Officer concludes that informal action will achieve compliance.
- (c) the Officer has adequate confidence in the individual's/enterprise's management.
- (d) the consequence of non-compliance will not pose a significant risk to public health.

Note: This approach is consistent with the Food Law Code of Practice together with LACOTS/LACORS Chief Officer Circulars FS 5 92 (30 September 1992) and FS 7 92 (16 December 1992).

**1.0.3** If any risk is identified as an imminent risk to public health, then the Officer must consider the use of formal powers of prohibition, seizure and Remedial Action. Therefore, reference must be made to Section 4, Chapters 3, 4 and 5 of this Manual.

**1.0.4** /....

## Chapter One (Cont'd)

### INFORMAL ACTION

**1.0.4** Immediately following all programmed inspections, an inspection report will be issued. This will be done on each occasion, including where conditions at the time of inspection are found to be satisfactory. The report will follow the format within the Food Law Code of Practice.

**1.0.5** When an informal approach is determined, written documentation issued to proprietors to secure compliance with legislation will contain the following:-

- (a) an appropriate heading making reference to the risk to public health identified by the Officer during the inspection.
- (b) all the information necessary to understand why any work is required. This information will be a description of the risk to public health.
- (c) a specification of the legislation contravened.
- (d) an accurate indication of the requirements of the legislation.
- (e) a statement of the measures which will enable compliance with the legal requirements **and** that other measures which will have the same effect may be chosen.
- (f) a clear and unambiguous indication of any recommendations of good hygiene practice under an appropriate heading, to show that they are not a legal requirement.
- (g) recommendations of good hygiene practice, which relate to the risk to public health described above.

Note: This format is consistent with the guidance given in the Food Law Code of Practice

**1.0.6** In communicating required actions, especially in the giving of verbal or written advice, Officers will clearly differentiate between legal requirements and the recommendation of good practice.

## Chapter Two

### STATEMENT OF POLICY IN RELATION TO

### THE ISSUE OF HYGIENE IMPROVEMENT NOTICES

**1.0.0** Hygiene Improvement Notices **will be issued** where the following circumstances pertain :-

- (a) A significant contravention of a legislative requirement is construed as being likely to endanger the public health.
- (b) Formal action is deemed proportionate to the risk to public health.
- (c) There is a lack of confidence in the proprietor or enterprise to respond to an informal approach, and the Officer believes that an informal approach will not be successful.
- (d) Standards are generally poor with little management awareness of statutory requirements
- (e) There is a record of non-compliance with Food Hygiene or food processing legislative requirements.
- (f) An informal approach has previously failed
- (g) This Manual otherwise directs that an Improvement Notice shall be served. Reference should be made to Section 5, Chapter 1, page 2.

**1.0.1** Hygiene Improvement Notices **will not be issued** when the following circumstances pertain:-

- (a) In the case of a minor technical contravention, without relevance to any potential risk to public health
- (b) Where the contravention is a continuing one, such as personal cleanliness of staff or general cleaning matters or the sale of raw milk, for example, and a Notice would only secure an improvement at one point in time. (In these circumstances a report to the Procurator Fiscal is indicated.)
- (c) In transient situations, where there is imminent risk of injury to health and swift enforcement action is needed. (In these circumstances service of a Hygiene Emergency Prohibition Notice is indicated).

**1.0.2** /....

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## Chapter Two (Cont'd)

### THE ISSUE OF HYGIENE IMPROVEMENT NOTICES

- 1.0.2** The Food Law Code of Practice gives detailed guidance on when and how Hygiene Improvement Notices should be used. Officers must ensure that they comply with the Food Law Code of Practice. LACOTS/LACORS have also published a number of circulars: - FS 3 92 1, FG 1 92 2, FG 4 95 1 and FS 9 94 4. Authorised Officers must ensure that they have regard to this guidance.
- 1.0.3** Officers drafting Hygiene Improvement Notices must comply with Food Law Code of Practice, and have regard to LACOTS/LACORS Circulars FS 3 92 1, FG 1 92 2, FG 4 95 1 and FS 9 94 4.
- 1.0.4** Hygiene Improvement Notices may be signed only by Officers authorised to do so. The following Officers will be authorised to sign Hygiene Improvement Notices :-
- (a) Qualified Environmental Health Officers, and
  - (b) Officers holding the Higher Certificate of Scottish Food Safety Officers Registration Board (R.E.H.I.S.) or equivalent qualification issued by the C.I.E.H. and the I.F.S.T.
- 1.0.5** Where an Officer who is not authorised to sign Hygiene Improvement Notices carries out an inspection, the outcome of which is that the service of a Hygiene Improvement Notice is required, the Notices may be signed only by an authorised Officer who has witnessed the contravention(s).
- 1.0.6** Hygiene Improvement Notices must be served on the proprietor of the business. If the name and address of the proprietor is not known, the Notice will be addressed to the “owner” of the property and left at the premises. This is in accordance with provisions of the Food Hygiene (Scotland) Regulations 2006.
- 1.0.7** The time specified for compliance with the Hygiene Improvement Notice must be reasonable and be subject to discussion with the proprietor of the food business, and in no circumstances be less than 14 days. ***Officers will acknowledge that it should not, therefore, be necessary for appeals to be lodged against the Notice, because insufficient time has been allowed.***
- 1.0.8** /....

## Chapter Two (Cont'd)

### THE ISSUE OF HYGIENE IMPROVEMENT NOTICES

- 1.0.8** Where Hygiene Improvement Notices are served on a national company, the authorised Officer must ensure that the Home Authority is notified.
- 1.1.0** The authorised Officer responsible for the service of a Hygiene Improvement Notice shall, on the date specified for compliance with the Notice, re-visit the premises subject to the Notice in order to determine compliance.
- 1.2.0** It is the policy of the Argyll and Bute Council to report all instances of failure to comply with a Hygiene Improvement Notice subject to Section 4, Chapter 7 below. ***Officers will recognise the need to establish all necessary evidence at the time of determining the need for formal enforcement action and will have reference to Section 3, Chapter 4 within this Manual.***

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## Chapter Three

### STATEMENT OF POLICY IN RELATION TO

### INSPECTION, DETENTION AND SEIZURE OF SUSPECTED FOOD

**1.0.0** It is the Policy of the Argyll and Bute Council to detain or seize food where Authorised Officers have reason to believe that the food fails to comply with Article 14 of Regulation (EC) 178/2002.

#### **1.1.0** Detention

**1.1.1** An Authorised Officer exercising powers of detention shall serve upon the person in charge of the food a Notice of Detention which shall specify a description of the food, and shall specify the quantity of food, and any identification marks. The Notice of Detention shall also direct that the food shall not be used for human consumption and that the food shall not be removed unless it is to a place specified by the Officer. If the Officer has any doubt about the security or physical condition of the food, then the Notice must specify a secure place to which the food must be removed.

**1.1.2** The Authorised Officer shall exercise his/her best endeavours to ensure that the owner of the Food is also so notified.

**1.1.3** A reasonable period of time shall be allowed for the owner of the food or the person in charge of the food to contact witnesses before having the food dealt with by a Sheriff, no later than 48 hours and, in the case of highly perishable foods, as soon as possible, but in any event within 21 days.

#### **1.2.0** Seizure

**1.2.1** It is the policy of the Argyll and Bute Council to seize food where the Authorised Officer is in possession of evidence or of adverse information concerning food.

**1.2.2** A reasonable period of time shall be allowed for the owner of the food or the person in charge of the food to contact witnesses before having the food dealt with by a Sherriff, no later than 48 hours and, in the case of highly perishable foods, as soon as possible, but in any event within 21 days.

**1.2.3** /....

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## Chapter Three (Cont'd)

### INSPECTION, DETENTION AND SEIZURE OF SUSPECTED FOOD

- 1.2.3** It is the policy of the Argyll and Bute Council to seize food that has been detained and is considered by the Authorised Officer to fail to comply with the Article 14 of Regulation (EC) 178/2002.
- 1.3.0** The Food Law Code of Practice provides detailed guidance on when and how the powers of detention and seizure are to be used. Officers **must** ensure that they comply with the Food Law Code of Practice.
- 1.4.0** It is the policy of the Argyll and Bute Council that Authorised Officers liaise with the Lead Environmental Health Officer, Food Control, in the event of any uncertainty, who shall, if indicated, seek external expert advice.
- 1.5.0** Authorised Officers investigating outbreaks of food-borne illness must at the earliest opportunity appraise the Lead Environmental Health Officer, Food Control, of the circumstances relating to any report, outbreak etc.
- 1.6.0** It is the policy of the Argyll and Bute Council, in the event of an outbreak of food-borne illness and prior to taking any action in relation to detention or seizure of suspect food, an Officer shall seek the support and advice of the Lead Environmental Health Officer, Food Control.
- 1.7.0** It is the policy of the Argyll and Bute Council to instigate prosecution proceedings for failure to comply with a Notice served under Section 9 of the Food Hygiene (Scotland) Regulations 2006. *Officers will recognise the need to ensure that there is sufficient evidence to justify the issue and subsequent Court proceedings and will have reference to Section 3, Chapter 4 within this Manual.*

## Chapter Four

### STATEMENT OF POLICY IN RELATION TO

### CONFIRMATION OF IMMINENT RISK OF INJURY TO HEALTH - HYGIENE EMERGENCY PROHIBITION NOTICES

- 1.0.0** It is the policy of the Argyll and Bute Council to serve Hygiene Emergency Prohibition Notices where the following circumstances pertain :-
- (a) Immediate and decisive action to protect public health is needed.
  - (b) An imminent risk of injury to health is foreseeable
  - (c) The criteria specified for the service of a Hygiene Emergency Prohibition Notice within the Food Law Code are confirmed.
  - (d) The Officer has no confidence in the realisation of actions declared in an **unprompted** offer of voluntary closure, or where a proprietor is unwilling to confirm in writing an offer of voluntary prohibition.
- 1.0.1** The Food Law Code of Practice gives guidance on the use of Hygiene Emergency Prohibition Notices. The SFCC have published Training Module Two : Emergency Prohibition Procedures. Officers must ensure that they comply with the Food Law Code of Practice and have regard to the SFCC guidance.
- 1.0.2** Before considering Hygiene Emergency Prohibition Notice procedures, an Officer must obtain the corroboration of a second Authorised Officer to provide corroborative evidence.
- 1.0.3** The issue of Hygiene Emergency Prohibition Notices shall be done only by the Lead Environmental Health Officer, Food Control, or the Regulatory Services Manager, or other Officers under their explicit direction.
- 1.0.4** Where the process or treatment under consideration requires the specialist knowledge of a technical expert, Authorised Officers **must** seek the opinion of the Lead Environmental Health Officer, Food Control, who will seek an expert opinion as is necessary, and will determine the final enforcement decision to be made.
- 1.0.5** /....

## Chapter Four (Cont'd)

### CONFIRMATION OF IMMINENT RISK OF INJURY TO HEALTH - HYGIENE EMERGENCY PROHIBITION NOTICES

- 1.0.5** Once the Hygiene Emergency Prohibition Notice has been served, an application for a Hygiene Emergency Prohibition Order must be made to the Court within 3 days. *Officers will recognise the importance of ensuring that this requirement is met to avoid involving the Authority in compensation action by the proprietor.*
- 1.0.6** The Authorised Officer serving the Notice **must** notify the Home Authority of a national company of the service of a Hygiene Emergency Prohibition Notice.
- 1.0.7** It is the policy of the Argyll and Bute Council to institute Prosecution proceedings for failure to comply with a Hygiene Emergency Prohibition Notice subject to Section 4, Chapter 7 below. *Officers **must** therefore be sure that there is sufficient evidence to justify the issue and result in a successful outcome in Court and will have reference to Section 3, Chapter 4 within this Manual.*

## Chapter Five

### REMEDIAL ACTION NOTICES

**1.0.0** Remedial Actions Notices **will be issued** where the following circumstances pertain :-

- (a) A food business is subject to Regulation (EC) 852/2004 **and** one or more of the following circumstances pertains:-
- (b) The inspection process is being hampered
- (c) There is a significant contravention of relevant EC Regulations and an informal approach has previously failed or is deemed likely to fail. Significant contravention shall be determined by reference to Section 2, Chapters 1 and 2 and Section 3, Chapter 3 of this Manual.
- (d) Where there is a failure to comply with statutory microbiological criteria defined under EC Regulations and an informal approach has previously failed or is deemed likely to fail.
- (e) As directed by the Food Standards Agency
- (f) This Manual otherwise directs that a Remedial Action Notice shall be served. Reference should be made to Section 5, Chapter 1, page 2.

**1.0.1** Remedial Action Notices **will not be issued** when the following circumstances pertain:-

- (a) In the case of a minor technical contravention, without relevance to any potential risk to public health.
- (b) It is the policy of the Argyll and Bute Council that a Remedial Action Notice can only be served by an Authorised Officer who has first gained the consent of the Lead Environmental Health Officer Food Control to do so. Following the Service of a Remedial Action Notice, the Lead Environmental Health Officer, Food Control, shall take the lead in relation to the Notice. ***Officers will recognise the need to establish all necessary evidence at the time of determining the need for the service of a Remedial Action Notice and will have reference to Section 3, Chapter 4 within this Manual.***

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## Chapter Six

### SPECIAL STATEMENT OF POLICY IN RELATION TO

### VOLUNTARY UNDERTAKINGS IN RELATION TO IMMINENT RISK OF INJURY TO HEALTH

- 1.0.0** It is the policy of the Argyll and Bute Council to accept voluntary undertakings to close a premises, cease using a process or equipment **only** where the following specific circumstances pertain :-
- (i) There is **no** risk of the premises being re-opened or the process or equipment being re-used without the specific permission of the Council.
- 1.0.1** The proprietor of a Food Business or other person associated with that business must **never** be prompted to voluntarily close their business or to cease using a process or equipment.
- 1.0.2** The Food Law Code of Practice gives guidance on the acceptance of voluntary undertakings in relation to situations where there is imminent risk to public health. Authorised Officers **must** ensure that they comply with the Food Law Code of Practice. Authorised Officers **must also** ensure that they have regard to the guidance the S.F.C.C. have published entitled Training Module Two Emergency Prohibition Procedures which contains relevant guidance.
- 1.0.3** Authorised Officers accepting voluntary undertakings to close premises or to cease using a process or equipment **must** obtain the written confirmation of the voluntary undertaking to close the premises or to cease using a process or equipment. This undertaking must include written confirmation that the premises will not be re-opened or the process or equipment re-used without the specific permission of the Council.
- 1.0.4** Authorised Officers **must** ensure that both written undertakings are signed and dated by the proprietor of the Food Business or other person associated with the business, holding sufficient authority of office with the business to secure and sustain the closure of the premises or disuse of the process or equipment.
- 1.0.5** /....

## Chapter Six (Cont'd)

### VOLUNTARY UNDERTAKINGS IN RELATION TO IMMINENT RISK OF INJURY TO HEALTH

- 1.0.5** If the Authorised Officer has any doubt as the capability of the person signing the undertakings to sustain them, then a Hygiene Emergency Prohibition notice **must** be served.
- 1.0.6** Authorised Officers accepting such undertakings **must** explain to the person giving the undertaking, that by giving the undertaking they are relinquishing their rights to compensation if a Court subsequently declines to make an Emergency Prohibition Order. The Authorised Officer **must** also confirm this in writing before the giving of the undertaking, and repeat the basis of this in subsequent correspondence.
- 1.0.7** It is the policy of the Argyll and Bute Council to institute Prosecution proceedings for offences identified when a voluntary undertaking to close premises or to cease using a process or equipment is breached subject to Section 4, Chapter 7 below. *Officers will recognise the need to establish all necessary evidence at the time of determining the need for formal enforcement action and will have reference to Section 3, Chapter 4 within this Manual.*

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## Chapter Seven

### STATEMENT OF POLICY IN RELATION TO PROSECUTION PROCEEDINGS

**1.0.0** It is the policy of the Argyll and Bute Council to institute prosecution proceedings by the submission of a report to the Procurator Fiscal where the following circumstances pertain :-

- (a) The alleged offence involves a flagrant breach of the law, such that health, safety or well being of the public is or has been put at risk.
- (b) The alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety, having been given a reasonable opportunity to comply with the lawful requirements of an Authorised Officer.
- (c) The offence involves a failure to comply in full or in part with the requirements of a statutory Notice.
- (d) There is a history of similar offences relating to risk to public health.
- (e) The criteria for prosecution are fulfilled according to the criteria specified below.

**1.0.1** It is the policy of the Argyll and Bute Council that the decision to take evidence with a view to prosecution is to be made by the Authorised Officer(s) during their inspection of the premises. Consideration of submission for prosecution **must** be made in consultation with the Lead Environmental Health Officer, Food Control. ***Officers must be sure that there is sufficient evidence to justify the issue and a successful outcome in Court and will have reference to Section 3, Chapter 4 within this Manual.***

**1.0.2** All Authorised Officers are authorised to take evidence for prosecution.

**1.0.3** The final decision to prosecute must be made in light of the guidance for Crown Prosecutors (January 1992). Reference will also be made to Food Law Code of Practice.

**1.0.4** /....

<b>Section 4</b>	<b>Chapter Seven</b>	<b>Page 1</b>
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## Chapter Seven (Cont'd)

### PROSECUTION PROCEEDINGS

- 1.0.4** In deciding to prosecute, consideration will be given to the ability of the defendant to sustain a defence under Regulation 7 of the Food Hygiene (Scotland) Regulations 2006 and the standard of Due Diligence etc will be considered against the guidelines published within the guidance entitled “The Food Safety Act 1990, Guidelines on the Statutory Defence of Due Diligence”, published in 1991 by LACOTS/LACORS *et al.*
- 1.0.5** In deciding to prosecute, consideration will be given to binding precedents of relevant case law.
- 1.0.6** All parties against whom prosecution proceedings are being considered shall be informed in writing at the earliest opportunity of the Service’s intention to report the matter to the Procurator Fiscal.
- 1.0.7** *Officers will note that, notwithstanding the time limits prescribed for prosecution within Regulation 16 of the Food Hygiene (Scotland) Regulations 2006, regard will be had to the judgement in Daventry Borough Council Vs Olins - i.e. Prosecution proceedings shall be brought to the Court without any undue delay.*
- 1.0.8** When evidence is under preparation, the Authorised Officer must give consideration to the possibility of an application for a Prohibition Order following conviction. It will be necessary to demonstrate that a risk of injury to health exists at the premises and the evidence should be set out in a manner, which addresses this issue.
- 1.0.9** Following conviction, the Lead Environmental Health Officer, Food Control, will notify the Office of Fair Trading and the Home Authority of a national company.



**SECTION 5**

**SPECIAL STATEMENT OF POLICY  
IN RELATION TO  
ENFORCEMENT IN RELATION TO  
PARTICULAR LEGISLATION  
SUBORDINATE TO  
THE FOOD HYGIENE (SCOTLAND)  
REGULATIONS 2006**

<b>Section 5</b>		
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ANDY/QA2010/Food Safety Law Enforcement Manual April 12

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Author:- A J MacLeod: Lead Officer

## Chapter One

### SPECIAL STATEMENT OF POLICY IN RELATION TO

### ARTICLE 5 OF REGULATION (EC) 852/2004

**1.0.0** It is the policy of the Argyll and Bute Council to recognise the particular difficulties associated with compliance with Article 5 of Regulation EC 852 (2004) and to also recognise the principles of flexibility contained within paragraphs 15, 16 and 17 of Regulation (EC) 852/2004. Therefore it is also the policy of the Service to work as closely as possible with food business proprietors, giving as much advice and information to them as resources allow, to facilitate their compliance with Article 5 of Regulation (EC) 852/2004. It is also the policy of the Council to recognise and to be informed by the Guidance Document entitled “Implementation of Procedures Based Upon the HACCP Principles, and Facilitation of the Implementation of the HACCP Principles in Certain Food Businesses” published by the Health and Consumer Protection Directorate General of the European Commission.

**1.0.1** It is also the policy of the Argyll and Bute Council, where proprietors do not actively seek to comply or demonstrate a commitment to comply with Article 5 of Regulation EC 852/2004, to initiate formal enforcement action against the proprietor, as provided for within this Manual, as is appropriate.

**1.0.2** It is the policy of the Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 following and during the course of inspections scheduled according to Food Law Code of Practice. It is also the policy of the Argyll and Bute Council to recognise that the general principles contained within the following guidance :-

- (a) **Guidance on the Regulatory Assessment of HACCP – Report of a Joint FAO/WHO Consultation on the Role of Government Agencies in Addressing H**
- (b) Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Compliance with Regulation 4 (3) SFCC 1999

**1.0.3** Officers **must** implement or as appropriate consider this guidance whilst assessing compliance with Article 5 of Regulation EC 852/2004 and whilst undertaking routine scheduled Food Safety inspections.

**It /....**

<b>Section 5</b>	<b>Chapter One</b>	<b>Page 1</b>
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## Chapter One (Cont'd)

### ARTICLE 5 OF REGULATION (EC) 852/2004

**It is also the policy of the Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to the validity of Control Measures, in accordance with the general principles of 'Guidelines For The Validation Of Food Safety Control Measures' CAC/GI 69 – 2008, published by the World Health Organisation, Codex Alimentarius Commission**

**1.0.4 It is also the policy of Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to risks of cross contamination, by reference to 'E.coli 0157 Control of Cross Contamination Guidance for Food Business Operators and Enforcement Authorities' and associated Guidance published by the Food Standard Agency.**

**1.0.5** It is also the policy of the Argyll and Bute Council to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to vacuum packaged processes by reference to the Current Guidance published by the Food Standards Agency and to the Report on Vacuum Packaging and Associated Processes Published by the Advisory Committee and the Microbiological Safety of Food and to assess compliance with Article 5 of Regulation (EC) 852/2004 in relation to and to shellfish depuration processes, by reference to any Operating Protocol and Guidance issued by the Food Standards Agency

**1.0.6** It is the policy of the Argyll and Bute Council to recognise the currency of the general principles contained within Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4(3) Compliance, published by the SFCC and to therefore identify the level of compliance according to the guidance published by the SFCC within Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4 (3) Compliance. Officers **must** ensure that they comply with this guidance and with any procedures and work instructions issued under this Manual

**1.0.7** It is the Policy of the Argyll and Bute Council to recognise the general currency of the Risk Based principles contained within Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4(3) Compliance, published by the SFCC, and to consider compliance levels in accordance with the general principles of the guidance. Officers **must** ensure that they consider the general principles within this guidance.

**1.0.8** /....

<b>Section 5</b>	<b>Chapter One</b>	<b>Page 2</b>
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## Chapter One (Cont'd)

### ARTICLE 5 OF REGULATION (EC) 852/2004

**1.0.8** Without prejudice to the generality of the above. It is the policy of the Argyll and Bute Council to consider business compliance as follows, relative to their level of compliance with Article 5 of Regulation EC 852 (2004):-

- (a) Rating 1: Unacceptable/No progress
- (b) Rating 2: Not Acceptable/Some progress
- (c) Rating 3: Acceptable level of compliance/Good progress
- (d) Rating 4: Acceptable/full compliance

**1.0.9** It is the policy of the Argyll and Bute Council to serve Hygiene Improvement Notices in relation to businesses classified as rating 1 or 2 and to confirm in an inspection report in writing, the deficiencies that lead to the Rating, at level 3. Officers **must** act accordingly and must comply with any procedure and work instruction issued under this Manual.

**2.0.0** It is the Policy of the Argyll and Bute Council to serve Remedial Action Notices in relation to businesses which are subject to Regulation (EC) 852/2004 and who are classified as rating 1 or 2 and to confirm in an inspection report in writing, the deficiencies that lead to the Rating, at level 3. Officers **must** act accordingly and must comply with any procedure and work instruction issued under this Manual.

**2.1.0** It is the policy of the Argyll and Bute Council to address instances of imminent risk to Public Health associated with non-compliance with Article 5 of Regulation (EC) 852/2004 through the service of Hygiene Emergency Prohibition Notices. Officers **must** act accordingly.

**2.2.0** **Statement of Policy in relation to Article 5 of Regulation EC 852 (2004)**  
**Applicable to New Businesses**

**2.2.1** **The Argyll and Bute Council recognise that from time to time new businesses will be established and that existing businesses will change ownership. In such situations it is the policy of the Service to recognise the particular difficulties associated with compliance with Article 5 of Regulation (EC) 852/2004. Therefore, it is also the policy of the Service to work as closely as possible with food business proprietors, giving as much advice and information to them as resources allow.**

**2.2.2** /....

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## Chapter One (Cont'd)

### ARTICLE 5 OF REGULATION (EC) 852/2004

**2.2.2** The following is also the policy of the Argyll and Bute Council:-

- (a) new Owners will be made aware of their legal responsibilities in respect of Article 5 of Regulation EC 852/2004.
- (b) new owners will be made aware of this Manual and the implications where non-compliance is established.
- (c) the Service will establish at the initial inspection whether the business does not represent a significant risk to public health. This inspection will be carried out at the earliest opportunity following the Service being notified.
- (d) where a significant risk is established, that the Service will apply the enforcement procedures described within Section 4, Chapters 3, 4, 5 and 6 of this Manual.
- (e) where it is confirmed that the new business does not comply with Article 5 of Regulation (EC) 852/2004, the Service will serve a Hygiene Improvement Notice under the Food Hygiene (Scotland) Regulations 2006 and will confirm in an inspection report in writing the deficiencies that lead to the non-compliance.

## Chapter Two

### SPECIAL STATEMENT OF POLICY IN RELATION TO

### THE REQUIREMENTS OF FOOD SAFETY LEGISLATION FOR INSTRUCTION, TRAINING AND SUPERVISION OF FOOD HANDLERS

- 1.0.0** It is the policy of the Argyll and Bute Council to make requirements in relation to the requirements of Food Safety legislation relating to the instruction, training and supervision of Food Handlers in accordance with applicable Guides and ‘Models’ given affect by EC Regulations and Directives.
- 1.1.0** In the absence of, or in addition to, a relevant Guide or “Model”, reference will be made to “Food Hygiene Training: A guide to it’s Responsible Management”. Published by The Institute of Food Science and Technology.
- 1.2.0** Officers **must** act accordingly.
- 1.3.0** It is also the policy of the Argyll and Bute Council to serve Hygiene Improvement Notices in relation to the instruction, training and supervision of Food Handlers under the Food Hygiene (Scotland) Regulations 2006 where it is determined in accordance with Food Safety (General Food Hygiene) Regulations 1995 Guidance Document On Assessing Progress with Regulation 4 (3) Compliance published by the SFCC, that hazards have not been identified and that the requirements specified within the references within paragraph 1.0 and 1.1 above have not been complied with.

## Chapter Three

### SPECIAL STATEMENT OF POLICY IN RELATION TO

### APPROVAL UNDER, AND REVOCATION OF APPROVAL UNDER, REGULATION (EC) 853/2004

- 1.0.0** It is the policy of the Argyll and Bute Council to Approve premises subject to Regulation (EC) 852/2004 where such premises comply with all the applicable requirements upon which Approval is contingent.
- 1.1.0** It is the policy of the Argyll and Bute Council to withdraw approval/revoke approval previously made under the applicable product specific legislation where the applicable requirements of revocation are met
- 1.2.0** By reference to Report on Vacuum Packaging and Associated Processes Published by the Advisory Committee and the Microbiological Safety of Food.
- 1.3.0** Approval shall not be granted, suspended or revoked without reference to the Specialist Environmental Health Officer (Food Safety).
- 1.4.0** *Officers will recognise the need to establish all necessary evidence at the time of determining the need for formal approval or revocation/suspension of approval and will have reference to Section 3, Chapter 4 within this Manual.*

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**SECTION 6**

**INTERPRETATION OF  
SAMPLE ASSAY RESULTS AND  
REFERENCE TO MICROBIOLOGICAL  
AND OTHER CRITERIA**

<b>Section 6</b>		
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Author:- A J MacLeod: Lead Officer



## Chapter One

### STATEMENT OF POLICY IN RELATION TO

### INTERPRETATION OF SAMPLE ASSAY RESULTS AND REFERENCE TO MICROBIOLOGICAL AND OTHER CRITERIA

**1.0.0** It is the policy of the Argyll and Bute Council to compare the results of sample assays to and interpret in accordance with the following: -

- ***“Statutory Standards and Criteria as defined by legislation.”***
- ***“Guidelines For the Microbiological Quality of Some Ready To Eat Foods Sampled at the Point of Sale”???*** – *To Be revised.*  
published jointly by  
The Public Health Laboratory Service and  
The Scottish Centre for Infection and Environmental Health
- ***“Development and Use of Microbiological Criteria for Foods”***  
published by  
The Institute of Food Science and Technology
- ***“Harmonization of Safety Criteria for Minimally processed Foods”***  
published by  
Food Linked Agro-Industrial Research European Commission
- ***“Report on Vacuum Packaging and Associated Processes”***  
published by  
The Advisory Committee and the Microbiological Safety of Food

**1.1.0** Officers **must** therefore have regard to the references specified within paragraph 1.0.0 above when interpreting the results of food assays.

**1.2.0** Officers **must** report every failure or suspected failure to meet the criteria specified within the references specified within paragraph 1.1.0 above to the Lead Environmental Health Officer, Food Control.

**1.3.0** The Lead Environmental Health Officer, Food Control shall consider and direct in relation to the most appropriate course of action and, in doing so, shall have shall have regard to Section 3 and Section 4 of this Manual.

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**SECTION 7**

**RECOMMENDATIONS AND ADVICE  
OVER AND ABOVE THE STANDARD  
REQUIRED BY LAW**

<b>Section 7</b>		
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Author:- A J MacLeod: Lead Officer

## Chapter One

### STATEMENT OF POLICY IN RELATION TO

### MAKING RECOMMENDATIONS IN RELATION TO GOOD HYGIENE PRACTICE OVER AND ABOVE THE STANDARDS REQUIRED BY LAW AND IN RELATION TO RISKS TO FOOD SAFETY NOT ADDRESSED BY LEGISLATION

- 1.0.0** It is the policy of the Argyll and Bute Council, in making recommendations in relation to good hygiene practice over and above the standards required by law or in relation to risks to food safety that are not addressed by law, to have regard to established sources of guidance produced by governmental organisations, international governmental organisations where the United Kingdom is a member, by recognised trade associations and by established research associations.
- 1.0.1** Officers **must** therefore have regard to such guidance when making such recommendations.
- 1.0.2** Officers **must** acknowledge the source of such guidance.

**SECTION 8**  
**LACOTS/LACORS**  
**HOME AUTHORITY PRINCIPLE**

<b>Section 8</b>		
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## Chapter One

### STATEMENT OF POLICY IN RELATION TO

### THE LACOTS/LACORS PRINCIPLE OF THE HOME AUTHORITY

- 1.0.0** It is the policy of the Argyll and Bute Council to fully recognise, acknowledge and support the LACOTS/LACORS Principle of the Home Authority.
- 1.0.1** In considering enforcement action against a national company, the Council will act in accordance with the LACOTS/LACORS Principle of the Home Authority.
- 1.0.2** Authorised Officers, in considering enforcement action against a national company, **must** act in accordance with the LACOTS/LACORS Principle of the Home Authority and must liaise with the Lead Environmental Health Officer, Food Control, and any Home or Originating Authority.

<p style="text-align: center;"><b>SECTION 9</b></p> <p style="text-align: center;"><b>TIME LIMITS FOR COMPLIANCE</b></p>
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<b>Section 9</b>		
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## Chapter One

### STATEMENT OF POLICY IN RELATION TO

### SPECIFICATION OF TIME LIMITS FOR COMPLIANCE

- 1.0.0** It is the policy of the Argyll and Bute Council to specify realistic time limits for compliance arising from both formal and informal enforcement action.
- 1.0.1** It is also the policy of the Argyll and Bute Council to take into consideration the following factors before a time limit is specified :-
- The risk to public health
  - The nature of the problem
  - Practicability of available solutions
- 1.0.2** Officers will have regard to genuine difficulties which may occur for proprietors attempting to comply – ie, regard will be had to the complexity, difficulty, expense and other resource burdens attendant with compliance.
- 1.0.2.1** In particular it is also the policy of the Council to account for the problems of remoteness and peripherality attendant within the Council's area in specifying time limits for compliance.
- 1.0.3** It is the policy of the Argyll and Bute Council, wherever possible, to agree the time limit with the proprietor before it is specified in any Notice.
- 1.0.4** It is the policy of the Argyll and Bute Council to issue guidance to which Authorised Officers **must** have regard when specifying time limits for compliance.

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# **SECTION 10**

## **NEW BUSINESSES**



## Chapter One

### STATEMENT OF POLICY IN RELATION TO

### NEW BUSINESSES

**1.0.0** The Argyll and Bute Council recognise that, from time to time, new businesses will be established and that existing businesses will change ownership. In such situations, it is the policy of the Argyll and Bute Council to work as closely with food business proprietors as possible, giving as much information and advice to them as resources allow.

**1.0.1** The Argyll and Bute Council will :-

- (a) make new owners aware of their legal responsibilities.
- (b) make new owners aware of the existence of this Manual and the implications to their business where non-compliance is established.
- (c) endeavour for an Officer to undertake an inspection and effect a risk assessment/Business profile, at the earliest opportunity following the Council being notified. In so doing, the Lead Environmental Health Officer, Food Control, and Service Managers have the discretion to direct this activity in consideration of available resources and in accordance with the principles within Section 2 and Section 3 of this Manual, specifically Section 3, Chapter 2 paragraph 1.0.1 and Section 3, Chapter 3 paragraphs 1.0.1 to 1.0.8.
- (d) where it is determined that the new businesses do not comply with Article 5 of Regulation (EC) 852/2004, serve a Hygiene Improvement Notice under the Food Hygiene (Scotland) Regulations 2006 and to confirm in an inspection report in writing the deficiencies that lead to the non-compliance.
- (e) provided that no significant risk to public health exists, agree in writing a programme of compliance with the proprietor.
- (f) where imminent risk to health is established, apply the enforcement procedures described within Section 4, Chapters 3, 4 and 5 of this Manual.

# **SECTION 11**

## **LANGUAGE**

<b>Section 11</b>		
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## **Chapter One**

### **STATEMENT OF POLICY IN RELATION TO**

### **ENFORCEMENT WHERE ENGLISH IS NOT THE FIRST LANGUAGE**

- 1.0.0** It is the policy of the Argyll and Bute Council to recognise Gaelic and ethnic minority languages. A covering letter must accompany Improvement Notices. If English is not the first language of the proprietor, a copy of the Warning Notice “Untranslated Food Safety Act Material – Legal Implications” must be included.
- 1.1.0** It is the policy of the Argyll and Bute Council to periodically review and to keep under review its provision of Food Law Enforcement in languages other than English.

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# **SECTION 12**

## **CONSISTENCY AND REVIEW**

<b>Section 12</b>		
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ANDY/QA2010/Food Safety Law Enforcement Manual April 12

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Last Date of Revision: 1<sup>st</sup> April. Reasons:- Cross Contam Guidance/RAN's ?WHO-Codex Val paper

Author:- A J MacLeod: Lead Officer

## Chapter One

### STATEMENT OF POLICY ON

### SECURING CONSISTENCY OF ENFORCEMENT WITH THIS MANUAL

- 1.0.0** All enforcement decisions taken by all Authorised Officers **must** be made in compliance with this Manual. Any departure from the Policy will be **exceptional**, capable of being justified by reference to this Manual and be fully considered in consultation with the Lead Environmental Health Officer, Food Control, and afterward, as is necessary, the Regulatory Services Manager.
- 1.0.1** It is the policy of the Argyll and Bute Council to issue procedures, work instructions and prescriptive standards as is necessary. These are deemed binding as an instruction which Enforcement Officers must comply with when carrying out Food Safety Enforcement. Similarly it is also the policy of the Argyll and Bute Council to issue guidance as is necessary, to which Enforcement Officers must have regard in carrying out Food Safety enforcement.
- 1.0.2** In order to ensure that the Policy is consistently applied, an introduction to the Policy will be included as part of the induction training received by all Authorised Officers at commencement of employment with the Council.
- 1.0.3** The review of enforcement activity will form part of the routine performance monitoring carried out within the Argyll and Bute Council. Where indicated, additional training, refresher courses, etc, will be given to all Officers.

## **Chapter Two**

### **STATEMENT OF POLICY IN RELATION TO**

### **POLICY REVIEW**

- 1.0.0** This Enforcement Policy will be kept continually under review by the Lead Environmental Health Officer, Food Control, and reviewed at least once per year by the Regulatory Services Manager, in light of developments, and in conjunction with other operational policies of the Service, by the Regulatory Services Manager.
- 1.0.1** The review will have regard to all new legislation, Codes of Practice or Food Standards Agency/SFELC/LACORS guidance, which concern food safety enforcement action.